

***HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
*HON'BLE SRI JUSTICE G. BHAVANI PRASAD**

+W.P. No.10666 of 2003

-

% 14th June 2007

K. Sudershan Reddy, S/o late K. Ranga Reddy,
Aged about 55 years, R/o. 13-1-67/13/31-A,
Avanthinagar, Hyderabad and 23 others .. **Petitioners**

Vs.

\$ The Special Court under A. P. Land Grabbing
(Prohibition) Act, Hyderabad and 8 others .. **Respondents**

! COUNSEL FOR THE PETITIONERS : Sri Vedula Venkata
Ramana

^ COUNSEL FOR RESPONDENTS 1 TO 3 : --

^ COUNSEL FOR RESPONDENTS 4 to 9 : Sri N.V.
Suryanarayana

Murthy

< Gist :

Ø Head Note:

? CITATIONS:

1. 1992 (1) ALT 112 (D.B.)
2. 2003 (5) ALD 679

3. Judgment of this Court in W.P. No.3486 of 2000 dt. 06-12-2000
4. 1993 (1) ALT 204
5. 1995 (2) ALT 84 (D.B.)

HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD

W.P. No.10666 of 2003

-

Between:

K. Sudershan Reddy, S/o late K. Ranga Reddy,
Aged about 55 years, R/o. 13-1-67/13/31-A,
Avanthinagar, Hyderabad and 23 others .. Petitioners

and

The Special Court under A. P. Land Grabbing
(Prohibition) Act, Hyderabad and 8 others .. Respondents

DATE: 14-06-2007

-
ORDER: (per Hon'ble Sri Justice G. Bhavani Prasad)

Twenty four petitioners filed the writ petition with leave challenging the threatened dispossession from their house properties in survey No.18-A of Bobbuguda, Balanagar Mandal, Ranga Reddy District in pursuance of the judgment and decree in L.G.C. No.166 of 1999 dated 28-03-2003 of the Special Court under the Andhra Pradesh Land Grabbing (Prohibition) Act, Hyderabad and also to set aside the judgment and decree and direct the respondents not to interfere with their possession.

The writ petitioners claimed that they purchased house plots ranging from 200 square yards to 500 square yards under agreements of sale and unregistered sale deeds from Samad Khan Ghouri, Syed Akther and Mohd. Farooq Hussain who in turn purchased the land from Hameed Begum and Muneeba Begum, daughters of Mohd. Habeebulla, brother of Sibgatullah, in 1984. The land purchased by the petitioners is surplus land under the Urban Land (Ceiling and Regulation) Act, 1976 and some of the writ petitioners approached the Special Officer and Competent Authority for invoking the benefit of G.O. Ms. No.455, dated 29-07-

2002 for allotment under Section 23 of the Urban Land (Ceiling and Regulation) Act. The petitioners are ready to pay the penalty for getting such allotment, but their request could not be entertained due to some pending litigation, of which the petitioners are not aware. On 04-06-2003 the officials of the Revenue Divisional Office and Mandal Revenue Office, respondents 4 to 9 and some police force came to the houses of the petitioners and informed that in the light of the decision of the Special Court under the Andhra Pradesh Land Grabbing (Prohibition) Act, Hyderabad holding respondents 4 to 9 to be the owners of survey No.18-A, the petitioners should vacate and hand over possession to respondents 4 to 9, failing which they will be dispossessed. The petitioners are unaware of L.G.C. No.166 of 1999 and they could ascertain with difficulty that respondents 4 to 9 filed the case against 13 persons who did not choose to contest the case, on which respondents 4 to 9 were declared as the owners. The writ petitioners are not bound by the judgment obtained in collusion, to which they were not parties and respondents 4 to 9 are making heavy monetary demands under threat of dispossession. The petitioners constructed their houses in 1996, investing more than Rs.3.00 to Rs.5.00 lakhs each and either are residing in or leased out about 40 houses. The houses are assessed to property tax since several years and respondents 4 to 9 have no right, title or interest over the land in survey No.18-A. The judgment in rem rendered by the Special Court has to adjudicate all relevant questions irrespective of any contest or otherwise and has to be set aside to give an opportunity of contest to the petitioners. The schedule land being Ac.2-17 guntas in an urban area, the Special

Court should have considered whether respondents 4 to 9 should have been declared as owners of such a vast extent in view of the Urban Land (Ceiling and Regulation) Act and whether the land is a surplus land. Respondents 4 to 9 who did not file any documents of title, had no evidence except some entries in revenue records relied on. The decree cannot be executed against the petitioners on erroneous findings and hence, the writ petition.

In the counter affidavit on behalf of respondents 4 to 9, it was contended that they are the children of Sibgatullah. The petitioners did not file any copies of agreements of sale or unregistered sale deeds relating to petitioners 5 to 14 and 16 to 24. The Xerox copies of four agreements of sale filed are inadmissible in evidence. No link documents or original documents of the vendors were filed. The agreements filed relate to survey No.18 and not survey No.18/A. The petitioners cannot become owners without sale deeds and their vendors purchased from Hameeda Begum and Muneeba Begum under an agreement of sale dated 24-02-1984. They filed O.S. No.568 of 1996 on the file of the I Additional Subordinate Judge, Ranga Reddy District for a declaration about their agreement of sale, which was decreed on 01-11-1996. Then respondents 4 to 9 filed O.S. No.54 of 1997 on the file of the I Additional Senior Civil Judge, Ranga Reddy District against the vendors of the petitioners and their vendors for cancellation of the said decree and for a consequential injunction and that suit was decreed on 27-10-2004. No appeal was filed against the said decree and judgment and the petitioners who claimed under their vendors are bound by the said judgment and decree. Hameeda Begum and Muneeba Begum and others filed O.S. No.19 of 1996 on the file of the I Additional District Judge,

Ranga Reddy District for partition against respondents 4 to 9 and others including for the land in survey No.18-A and the suit was dismissed as withdrawn on 01-11-1999. Respondents 4 to 9 filed L.G.C. No.166 of 1999 alleging grabbing of Ac.2-14½ guntas in survey No.18-A by respondents 1 to 13 and that the land belonged to and was in possession of Sibgatullah from 1949 till his death in 1965 and respondents 4 to 9 from 1965 till the land grabbing. The petitioners were not in possession on 12-10-1999 when L.G.C. No.166 of 1999 was filed and the Special Court obtained the report of the Mandal Revenue Officer under Rule 6 of the Andhra Pradesh Land Grabbing (Prohibition) Rules, 1988 (for short “the Rules”) and the Mandal Revenue Officer submitted a report supporting the contentions of respondents 4 to 9 and mentioning that some respondents constructed houses and some were under construction. Form-II(A) notice was also given by the Special Court by publication in the Andhra Pradesh Gazette which is public notice and the petitioners cannot claim want of notice. The petitioners who did not implead themselves cannot maintain a writ petition and the decision on fact or title cannot be disputed in the writ petition more so when the respondents in L.G.C. No.166 of 1999 suffered judgment in spite of the order of the Special Court in I.A. No.1163 of 1999 dated 27-07-2000 that any construction will be subject to the result of the main case. The petitioners claiming to be interested in the land are bound by the judgment of the Special Court by virtue of Section 8 (6) of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 (for short “the Act”) and the petitioners guilty of laches in spite of the case being pending for about four years, cannot claim title. Respondents 4 to 9 filed declaration under Urban Land

(Ceiling and Regulation) Act claiming that the Act has no application to the agricultural lands and filed W.P. No.10624 of 2005 against the contrary decision of the Competent Authority. The petitioners could have applied under G.O. Ms. No.455 as it was open to them to contend that the judgment in land grabbing case is not binding on them. No notification under Section 10 (3) of the Urban Land (Ceiling and Regulation) Act was published in respect of the subject land. Hence, respondents 4 to 9 sought for dismissal of the writ petition.

Sri Vedula Venkata Ramana, learned counsel for the writ petitioners vehemently contended that the writ petitioners who were not given any notice in spite of being persons interested being the possessors under agreements of sale or unregistered sale deeds since much prior to the filing of the land grabbing case, are not bound by the impugned judgment and decree and are entitled to the reliefs claimed. The learned counsel brought to notice that Section 8 (6) of the Act making every judgment of the Special Court with regard to the determination of title and ownership to, or lawful possession of, any land grabbed binding on all persons having interest in such land, had the words “whether or not such persons are parties before the Special Court” omitted from it by Andhra Pradesh Act 16 of 1987 and hence, the impugned judgment and decree cannot bind the writ petitioners.

Sri N.V. Suryanarayana Murthy, learned senior counsel for respondents 4 to 9 strenuously argued that when the Civil Court declared the rights of respondents 4 to 9 against the vendors of the petitioners and their vendors, there remains absolutely no basis for any claim by the petitioners. When the statutory notification and notices were published and issued in the land

grabbing case as prescribed, the petitioners cannot claim want of knowledge and before or after the amendment, Section 8 (6) of the Act continues to bind all persons having interest in the land with the findings of the Special Court about title and possession. The learned senior counsel, therefore, contended that the writ petition does not lie.

The questions that arise for consideration are, therefore, whether the third parties making independent claims to the subject land and whose predecessors-in-title were not parties to the land grabbing case, are bound by the judgment and decree in the land grabbing case and are liable to be proceeded against.

The scope and effect of Section 8 (6) of the Act in such a contingency determine the answer to the questions. Section 8 (6) of the Act as it originally stood is as follows:

(6) Every finding of the Special Court with regard to any alleged act of land grabbing shall be conclusive proof of the fact of land grabbing and of the persons who committed such land grabbing, and every judgment of the Special Court with regard to the determination of title and ownership to, or lawful possession of, any land grabbed shall be binding on all persons having interest in such land whether or not such persons are parties before the Special Court.

By Andhra Pradesh Act 16 of 1987 with effect from 18-09-1986, in Sub-section (6) the words “whether or not such persons are parties before the Special Court” were omitted and the following provisos were added:

“Provided that the Special Court shall, by notification specify the fact of taking cognizance of the case under this Act. Such notification shall state

that any objection which may be received by the Special Court from any person including the custodian of evacuee property within the period specified therein will be considered by it;

Provided further that where the custodian of evacuee property objects to the Special Court taking cognizance of the case, the Special Court shall not proceed further with the case in regard to such property;

Provided also that the Special Court shall cause a notice of taking cognizance of the case under the Act, served on any person known or believed to be interested in the land, after a summary enquiry to satisfy itself about the persons likely to be interested in the land”.

While Section 8 of the Act deals with procedure and powers of the Special Courts, Section 7-A inserted in the Act by Andhra Pradesh Act 16 of 1987 deals with Special Tribunals and their powers, etc. and Sub-section (4) thereof is in pari materia with Section 8 (6) as amended.

In **New Jaji Labour Society v. Haji Abdul Rahaman Sahab**^[1], Section 8 (6) of the Act was under consideration among other things and though the judgment was rendered later to the amendment of Section 8 (6) of the Act by Andhra Pradesh Act 16 of 1987, the amendment omitting the words “whether or not such persons are parties before the Special Court” was not brought to the notice of the Division Bench. The Division Bench observed that from the aims and objects of the Act it is evident that the activity of land grabbing which is sought to be prohibited by the Act is not only by the individual, but also by the societies whether incorporated or not and the individuals who encroach and remain on the land are not constant but variables. As they change from

time to time, it is very difficult for any person or authority to implead them as *eo nomine*. The Division Bench, hence, held that it is for this reason sub-section (6) of Section 8 of the Act provides that every judgment of the Special Court with regard to the determination of title and ownership to, or lawful possession of, any land grabbed shall be binding on all persons having interest in such land, whether or not, such persons are parties before the Special Court. In that case, the trespassers were claimed to be a society, its members and successors-in-interest. The society represented by its President and Secretary was the respondent. No plea was taken that the members of the society or the office bearers are not in possession or that those who are in possession, are not impleaded as parties. It was found by the Division Bench that the President and Secretary of the society have been instrumental in grabbing the lands in question and those who are in possession of the land grabbed by the society are its members and therefore, the judgment was held to be binding on all those who have occupied the land grabbed. Apart from not taking into consideration the effect of the omission of the words “whether or not such persons are parties before the Special Court” from Section 8(6) and addition of three provisos to it, repelling the contention that the alleged encroachers were not parties to the proceedings, was due to the society represented by the President and the Secretary being a party and the society alone being instrumental for the land grabbing by the society and its members who are in possession. That was not a case of a third party or any predecessor-in-interest of the third party being not parties to the land grabbing case and claiming to be not bound by the finding of

land grabbing by any person with whom they had no concern.

The question again fell for consideration in **Mullapudi Satyam and others v. Sub-Collector, Vijayawada, Krishna**

District^[2]. Hon'ble Sri Justice V.V.S. Rao noted that the intention of the legislation in defining 'land grabber' under Section 2(d) and 'land grabbing' in Section 2(e) in a broadest language possible is reflected in Section 7-A (4) and Section 8 (6). Repelling the contention that Section 7-A (4)/Section 8(6) must be given a restricted meaning, the learned Judge observed that omission of the words "whether or not such persons are parties before the Special Court" by Andhra Pradesh Act 16 of 1987 does not make any difference in the plain meaning of Section 8(6) of the Act and observed that whatever be the hardship caused, the Court should give literal interpretation when the plain meaning is clear, unless it results in absurdity. Consequently, it was held that Section 7-A (4)/Section 8(6) only mean that whether persons are parties before the Special Court or Special Tribunal, when once the Special Tribunal or Special Court determines the title or ownership of the land grabbed, the same is binding on all the persons claiming interest in such land. The learned Judge referred to **New Jaji Labour Society's case**

(1 supra) and held the judgment and decree to be binding on the writ petitioners before him. The learned Judge also referred to the earlier judgment of this Court between same parties in **W.P.**

No.3486 of 2000^[3] wherein the Division Bench observed that since the petitioners are not parties to the judgment in L.G.O.P. No.335 of 1983, dated 27-10-1986, it will not bind the petitioners and if the petitioners are entitled to the property covered by the

judgment and be in possession of the same, the petitioners can work out their legal remedies by way of private law review and seek declaration, injunction or damages as the case may be to suit their grievances, but interpreted that the second part of Section 7-A (4)/Section 8(6) is that every judgment of the Special Tribunal/Special Court regarding title and ownership of any land grabbed shall be binding on all persons having interest in such land and hence, the observations of the Court to the effect that the judgment in L.G.O.P. will not bind the petitioners, only mean that the finding with regard to the act of land grabbing which would attract penal consequences as per the provisions of the said Act, is left open giving liberty to the petitioners to seek legal remedies by way of private law remedy seeking declaration and damages and that by reason of the second part of Sub-section (4) of Section 7-A/Sub-section (6) of Section 8 of the Act, the determination by the Special Tribunal/Special Court as to title and ownership is binding on all the persons having interest in such land. The learned Judge observed in para 19 that when once the land is declared as grabbed by the non-owners, all the persons claiming through such non-owners are bound by the determination given by the Special Tribunal/Special Court. In the case before His Lordship, the petitioners were admittedly members of New Jaji Labour Society against which the L.G.O.P. was filed and their attempts to question the judgment and decree in L.G.O.P. were unsuccessful on a number of occasions right from the decision reported in 1992 (1) ALT 112 (D.B.) (1 supra).

To appreciate the scope and effect of Section 8(6)/Section 7-A (4), the provisions of the statute and the statutory rules need a closer examination. The definition of 'land grabber' under Section

2 (d) of the Act meaning a person or group of persons who commits land grabbing and including any person who gives financial aid to any person for taking illegal possession of lands or for construction of unauthorized structures thereon, or who collects or attempts to collect from any occupiers of such lands rent, compensation and other charges by criminal intimidation, or who abets the doing of any of the above mentioned acts, also includes the successors-in-interest of such persons only. The definition does not ex facie appear to include persons acting or claiming independent of the persons defined to be land grabbers or their successors in interest.

Under the first proviso to amended Section 8(6)/inserted Section 7-A (4), the Special Court/Special Tribunal shall cause a notification published specifying the fact of taking cognizance of the land grabbing case and inviting objections from any person including the custodian of evacuee property within the period specified therein. Rule 7 of the Rules prescribes such notice in Form-II (A) or Form-II (B) to be published in the Andhra Pradesh Gazette by the Special Court/Special Tribunal respectively. The prescribed forms refer to notice being given to whomsoever it may concern and any person intending to object being at liberty to submit his objections. But significantly, the first proviso to Section 7-A (4)/Section 8(6) or Rule 7 or Forms-II (A) and II (B) do not refer to “persons having interest in such land”. The third proviso to Section 7-A (4)/Section 8(6) prescribes that the Special Tribunal/Special Court shall cause a notice of taking cognizance of the case under the Act, served on any person known or believed to be interested in the land, after a summary enquiry to satisfy itself about the persons likely to be interested in the land. Rule 8

of the Rules prescribes notice in Form-III (A) or Form-III (B) by the Special Court/Special Tribunal respectively to the persons known or believed to be interested in the land and in contrast with the notice to any person under Rule 7 of the Rules given by publication in the Andhra Pradesh Gazette, the notices under Rule 8 to the persons known or believed to be interested in the land, have to be personally served in the manner provided by Rule 10 thereof. When Section 8(6)/Section 7-A (4) states that every judgment of the Special Court/Special Tribunal with regard to the determination of title and ownership to, or lawful possession of, any land grabbed shall be binding on all persons having interest in such land, the reference to 'all persons having interest in such land' can, in the ordinary and natural course, only be a reference to 'any person known or believed to be interested in the land' to whom a notice under Rule 8 is given after a summary enquiry by the Special Court/Special Tribunal about the persons likely to be interested in the land. The same cannot be a reference to any person referred to in the first proviso to Section 8(6)/Section 7-A (4) or Rule 7, as otherwise there was no need to duplicate the notices under the first proviso and the third proviso to Section 8(6)/Section 7-A (4) and Rules 7 and 8. The two provisos and the two rules must have been intended to operate in respect of different classes of persons and if the judgment of the Special Court/Special Tribunal on title or ownership or lawful possession of a land were to be made binding on any and every person irrespective of other considerations, the same would have been clearly reflected in the language of the provision.

The advised omission of the words "whether or not such

persons are parties before the Special Court” by Andhra Pradesh Act 16 of 1987 from the original Section 8 (6) of the Act and non-inclusion of such words in Section 7-A (4) at the time of its insertion, must also have been to make such effect and consequence clear.

The addition of the three provisos to Section 8(6) and insertion of identical provisos in Section 7-A (4) providing for different manner of notices to distinct classes of persons must have been intended only to achieve such object and purpose. The third proviso stipulating a summary enquiry to identify the persons likely to be interested in the land while making it mandatory to cause notices served on persons known or believed to be interested in the land makes the legislative intention amply clear to restrict the hitherto unbridled scope of the second part of Section 8(6) in tune with the basic principles of natural justice and fundamental prerequisites of accepted judicial procedures and norms.

This must be so, is also evident from the schedule to the Act, which shall constitute the guidelines for interpretation and implementation of the Act as per Section 17-B of the Act. The schedule mentions with reference to this aspect that it is common knowledge that one of the well known methods of defeating the just claims of a decree holder is by setting up third parties in a fresh litigation alleging that the third parties were not parties to the earlier proceedings and so they were not bound by the decree. It was stated that to surmount this, it was felt necessary that a notification should be issued by the Special Court specifying the factum of taking cognizance of any case under the Act so that the said notification may serve as notice to all the persons interested

in the litigation and if they do not come forward within the time specified to file their objections, the finding of the Special Court will become conclusive proof regarding the fact of the land grabbing. It is significant that the schedule made only a reference to the finding of the Special Court becoming conclusive proof regarding the fact of the land grabbing which is the first part of Section 8(6)/Section

7-A (4) of the Act, but made no reference to the judgment on determination of title and ownership or lawful possession being binding on all persons having interest in such lands which is the second part of the provision. Though the schedule referred to all persons interested in the 'litigation', it did not refer to all persons having interest in 'such land'. Thus, the schedule may indicate the first proviso to the provision and Rule 7 of the Rules to operate as conclusive proof of the fact of land grabbing and the persons who committed such land grabbing on publication of the prescribed notice in Forms-II (A) and II (B) and in the absence of any objections, the binding nature of the judgment on all persons having interest in such land under the second part of the provision becomes operative only with reference to the third proviso to the provision and Rule 8 after service of notice on persons known or believed to be interested in the land after a summary enquiry by the Special Court/Special Tribunal to satisfy itself about the persons likely to be interested in the land. As every word used in the statute and in the statutory rules has to be given its due effect and as no word can be considered redundant, this should be the consequential legal effect. Similarly, the omission of the words "whether or not such persons are parties before the Special Court"

from the original provision and the addition of three provisos, has to be construed as undertaken to facilitate such harmonious interpretation and to avoid any ambiguity and to achieve a definite legislative purpose and intention. The use of those words omitted cannot be considered purposeless or redundant and the Legislature cannot be considered to have undertaken a superfluous and purposeless amendment.

The relevant provisions must be so understood, is also supported by the reasoning in **B. Lalita Devi v. Spl. Court, Land Grabbing**^[4] and **Municipal Corporation of Visakhapatnam v. B. Lalita Devi**^[5]. The learned Single Judge in **B. Lalita Devi's case** (4 supra) noted that the purchasers in possession by the time of the land grabbing case should have been treated as persons interested in the land and the petitioners in the land grabbing case aware of the same should have impleaded them in the land grabbing case. Referring to third proviso to Section 8(6) and Rule 8, it was held that it is obligatory for the Special Court to cause notice of taking cognizance of the case served on any person known or believed to be interested in the land, but as there was no material before the Special Court to show that the petitioners were interested in the land in question, the omission to give notices to them in Form-III (A) was not failure of duty. The learned Single Judge also opined that the notice under Form-II (A) published in the Andhra Pradesh Gazette cannot be treated as sufficient notice to the petitioners and referring to **New Jaji Labour Society's case** (1 supra), it was observed that the right of the petitioners to prosecute their case will be deprived and the vendors of the petitioners who have already collected the sale consideration

cannot be expected to look after the interests of the petitioners. Hence, notwithstanding the delay, the learned Single Judge directed impleadment of the petitioners in the main land grabbing case. It may also be noted that the petitioners were purchasers under sale deeds from the original owners who were parties to the main land grabbing case.

This decision of the learned Single Judge was reversed in **Municipal Corporation of Visakhapatnam's case** (5 supra) in the writ appeal observing that there is no inherent right in a person to claim to be impleaded as being the necessary party under Order I Rule 10 of the Code of Civil Procedure or the principles thereof which can be adopted as principles of natural justice and yet he may undoubtedly come before the Court claiming such benefit as being the requirement of the principles of natural justice and fair play in the circumstances of the case. On facts, the Division Bench observed that the petitioners did not file any objections in pursuance of the notice under Rule 7(1) in Form-II (A) under the first proviso to Section 8(6) and that there was no averment of the notice being not to their knowledge. Observing that even apart from the publication of Gazette notification being ipso facto notice to all persons interested, the petitioners never claimed to have not known the proceedings before the Special Court. The petitioners also never explained as to why the opportunity was not availed by them when objections were called for under Rule 7 (1). It was in that background that the Division Bench concluded that there was no failure of natural justice apart from the petitioners having no independent claim to contest the case claiming title through the respondents to the main land grabbing case. The Division Bench did not derogate from the observations of the learned Single Judge

about the third proviso to Section 8(6) or Rule 8. Therefore, it is clear that notwithstanding the publication of notice in the Gazette, if notice and proceedings before the Special Court were not to the knowledge of the third party and if the third party is able to explain as to why such opportunity was not availed by it, the third party can claim to be impleaded in tune with the requirements of the principles of natural justice and fair play in any event but definitely when it has a right or independent claim than through the respondents to the main land grabbing case. The distinction between the effect of notice under the first and third provisos to Section 8(6) respectively is, thus, clear.

Coming to the other litigation leading to **New Jaji Labour Society's case** (1 supra) and **Mullapudi Satyam's case** (2 supra), in the former case, the judgment of the Special Court was held binding on all those who have occupied the land grabbed on facts, firstly without reference to the omission of the words "whether or not such persons are parties before the Special Court" and addition of the three provisos and secondly as the President and Secretary of the society which is a party were instrumental to the possession of the land grabbers. The scope of the words "all persons having interest in such land" used in Section 8(6) was not considered from the perspective of the persons not claiming through the parties before the Special Court.

When it came to W.P. No.3486 of 2000 by 192 persons in their individual capacity, the Division Bench observed in its order dated 06-12-2000 that the petitioners were admittedly not parties to the judgment. While declining to entertain the writ petition and taking up adjudication of the claim put forth by the petitioners touching upon the title to the property, the Division Bench stated

that suffice it to state that since the petitioners are not parties to the judgment in L.G.O.P. No.335 of 1983 dated 27-10-1986, it will not bind the petitioners, and if the petitioners are entitled to the property covered by the judgment and be in possession of the same, the petitioners can work out their legal remedies by way of private law review and seek declaration, injunction or damages as the case may be to suit their grievances. The plain and unambiguous language of the judgment makes it clear that the Court was disinclined to go into the realm of facts and factum of possession, but was clear that the petitioners who were not parties to the judgment in the land grabbing case are not bound by the judgment and can work out all the legal remedies available to them. The interpretation sought to be placed on the meaning of the judgment in **Mullapudi Satyam's case**

(2 supra) that the observation about the judgment not being binding is confined to the finding about the act of land grabbing and its penal consequences against which liberty to seek legal remedy was given to the petitioners, but not on the determination of the title and ownership in such land, does not appear to be in tune with the plain and unqualified expression of opinion by the Division Bench about the non-party petitioners being not bound by the judgment. Working out legal remedies by way of private law review and seeking declaration or injunction or damages as the case may be to suit the grievances of the petitioners, appear to be giving all pervasive liberty but not a restrictive shield against the penal consequences of land grabbing alone. It is true as observed by the learned Judge that the provisions of Section 7-A (4)/Section 8(6) do not appear to have been brought to the notice of the

Division Bench when the petitioners were given liberty to seek appropriate declaration from the civil Court. The Division Bench cannot be considered to be oblivious to the existence of Section 7-A (4)/Section 8(6) and must be understood to have preserved the rights of the petitioners to workout their remedies, as the binding nature of the judgment on all persons having interest in the land is not universal and unqualified.

When Rule 15 of the Rules referred to delivery of possession voluntarily or otherwise by the person in possession or occupation, Form-V direction to be issued by the Revenue Divisional Officer on receipt of the order of the Court shall specify the person in possession or occupation who has to deliver possession. How it signifies any person claiming possession or occupation independent of the named person in the order or direction, is difficult to comprehend and any removal of obstruction or unauthorized occupation in the absence of voluntary delivery of possession to be certified in Form-VII can only be in respect of the person named in Form-V. Even if liberally interpreted, Rule 15 of the Rules and the Forms thereunder can only be considered to cover successors-in-interest of or persons claiming through the person named but not persons claiming an independent right or interest. The words “whether or not such persons are not parties before the Special Court” were not included in Section 7-A (4) as similar words were omitted from Section 8 (6) of the Act and not vice versa. The observations of the learned Single Judge in **Mullapudi Satyam’s case** (2 supra) basically due to the persons claiming to be third parties being the members of the society which was a party to the land grabbing litigation throughout, have to be, therefore, understood as being necessitated by the facts

and circumstances of that case and obiter dicta. The ratio decidendi of the case was laid down in para 19 of the said judgment that when once the land is declared as grabbed by the non-owners, all the persons claiming through such non-owners are bound by the determination given by the Special Tribunal/Special Court.

If Section 8(6)/Section 7-A (4) of the Act were to be considered as having universal unexceptional application to every person having interest in such land, the same runs counter to the basic principle of natural justice that nobody shall be condemned unheard which is the foundation of the rule of law. Denial of a reasonable notice and a reasonable opportunity before an adverse judicial intervention runs counter to the fundamental Constitutional theme. The finding of the Special Court about the fact of land grabbing and of the persons who committed such land grabbing being made conclusive proof, leaves untouched any rights of third parties to title or ownership or possession of the subject land or the right to pursue legal remedies regarding the same subject, of course, to the disadvantage of the conclusive presumption, but binding nature of the determination of title or ownership or lawful possession of the subject land by the judgment of the Special Court can only be in respect of (a) the parties before the Special Court or (b) persons known or believed to be interested or likely to be interested in the land to whom notices under the third proviso to Section 8(6) were duly served or can be deemed to have been duly served or (c) persons who are successors-in-interest to or claiming through land grabbers or parties before the Special Court or (d) persons who had notice of the notification in the Andhra Pradesh Gazette under the first proviso to Section 8(6) and Rule 7

but did not avail the opportunity of filing objections or (e) persons who had knowledge of the proceedings before the Special Court/Special Tribunal otherwise but allowed the proceedings to conclude in their absence. Third parties, who do not fall under any of the categories described above, cannot be inhibited from pursuing or asserting their rights under the guise of Section 8(6)/Section 7-A (4) of the Act.

The present writ petitioners claimed to be purchasers under agreements of sale or unregistered sale deeds from the vendees, the daughters of brother of Sibgatullah, but are not tracing their claims either through Sibgatullah through whom respondents 4 to 9 are making their claim in the Land Grabbing Case or through the respondents therein. No prior notice and earlier knowledge of the Land Grabbing Case before 04-06-2003 was alleged or probablised against them who were not parties to L.G.C. No.166 of 1999. The conflicting claims of the petitioners and respondents 4 to 9 touch upon the title and possession of the subject property to determine, which the Court should necessarily go into the realm of facts which ordinarily and normally will not be done in exercise of the extraordinary original jurisdiction of this Court in a writ. While the parties have to be relegated to appropriate legal remedies on the questions of fact in controversy between them, the impugned judgment and decree in L.G.C. No.166 of 1999 can also be not set aside at the instance of the writ petitioners when respondents 1 to 12 in the land grabbing case did not contest the allegations made against them and when respondents 4 to 9 herein settled their dispute with the 13th respondent therein and more particularly when respondents 1 to 13 therein are not parties before this Court

in this writ petition. Suffice it to hold that the impugned judgment and decree in the land grabbing case are not binding on the writ petitioners who are entitled to pursue all their legal rights and legal remedies as provided by law in respect of the same.

Therefore, it is declared that the judgment and decree in L.G.C. No.166 of 1999 of the Special Court under the Andhra Pradesh Land Grabbing (Prohibition) Act, Hyderabad dated 28-03-2003 are not binding on the petitioners herein and the petitioners are at liberty to pursue all their legal rights and legal remedies in accordance with law in respect of the subject matter of L.G.C. No.166 of 1999 and the writ petition is ordered accordingly without costs.

B. PRAKASH RAO, J

G. BHAVANI PRASAD, J

Date: 14-06-2007

Note:

L.R. copies to be marked.

(Bo)

Svv

[\[1\]](#) 1992 (1) ALT 112 (D.B.)

[\[2\]](#) 2003 (5) ALD 679

[\[3\]](#) Judgment of this Court in W.P. No.3486 of 2000 dated 06-12-2000

[\[4\]](#) 1993 (1) ALT 204

[\[5\]](#) 1995 (2) ALT 84 (D.B.)